

AMENDED IN ASSEMBLY SEPTEMBER 1, 2015

AMENDED IN ASSEMBLY JUNE 16, 2015

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL

No. 337

Introduced by Senator Pavley

February 23, 2015

An act to amend Sections 3501, 3502, and 3502.1 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 337, as amended, Pavley. Physician assistants.

Existing law, the Physician Assistant Practice Act, provides for regulation of physician assistants and authorizes a physician assistant to perform medical services as set forth by regulations when those services are rendered under the supervision of a licensed physician and surgeon, as specified. The act requires the supervising physician and surgeon to review, countersign, and date a sample consisting of, at a minimum, 5% of the medical records of patients treated by the physician assistant functioning under adopted protocols within 30 days of the date of treatment by the physician assistant. The act requires the supervising physician and surgeon to select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient. A violation of those supervision requirements is a misdemeanor.

This bill would require that the medical record for each episode of care for a patient identify the physician and surgeon who is responsible for the supervision of the physician assistant. The bill would delete those medical record review provisions, and, instead, require the

supervising physician and surgeon to use one or more of described review mechanisms. By adding these new requirements, the violation of which would be a crime, this bill would impose a state-mandated local program by changing the definition of a crime.

The act authorizes a physician assistant, while under prescribed supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device. The act prohibits a physician assistant from administering, providing, or issuing a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets approved standards. The act requires that the medical record of any patient cared for by a physician assistant for whom a physician assistant's Schedule II drug order has been issued or carried out to be reviewed, countersigned, and dated by a supervising physician and surgeon within 7 days.

~~This bill would delete that review and countersignature requirement for a physician assistant's Schedule II drug order, and, instead, require that establish an alternative medical records review mechanism, and would authorize the supervising physician and surgeon use one to use the alternative mechanism, or a sample review mechanism using a combination of the 2 described mechanisms mechanisms, as specified,~~ to ensure adequate supervision of the administration, provision, or issuance by a physician assistant of a drug order to a patient for Schedule II controlled substances.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3501 of the Business and Professions
- 2 Code is amended to read:
- 3 3501. (a) As used in this chapter:

1 (1) “Board” means the Physician Assistant Board.

2 (2) “Approved program” means a program for the education of
3 physician assistants that has been formally approved by the board.

4 (3) “Trainee” means a person who is currently enrolled in an
5 approved program.

6 (4) “Physician assistant” means a person who meets the
7 requirements of this chapter and is licensed by the board.

8 (5) “Supervising physician” or “supervising physician and
9 surgeon” means a physician and surgeon licensed by the Medical
10 Board of California or by the Osteopathic Medical Board of
11 California who supervises one or more physician assistants, who
12 possesses a current valid license to practice medicine, and who is
13 not currently on disciplinary probation for improper use of a
14 physician assistant.

15 (6) “Supervision” means that a licensed physician and surgeon
16 oversees the activities of, and accepts responsibility for, the medical
17 services rendered by a physician assistant.

18 (7) “Regulations” means the rules and regulations as set forth
19 in Chapter 13.8 (commencing with Section 1399.500) of Title 16
20 of the California Code of Regulations.

21 (8) “Routine visual screening” means noninvasive
22 nonpharmacological simple testing for visual acuity, visual field
23 defects, color blindness, and depth perception.

24 (9) “Program manager” means the staff manager of the diversion
25 program, as designated by the executive officer of the board. The
26 program manager shall have background experience in dealing
27 with substance abuse issues.

28 (10) “Delegation of services agreement” means the writing that
29 delegates to a physician assistant from a supervising physician the
30 medical services the physician assistant is authorized to perform
31 consistent with subdivision (a) of Section 1399.540 of Title 16 of
32 the California Code of Regulations.

33 (11) “Other specified medical services” means tests or
34 examinations performed or ordered by a physician assistant
35 practicing in compliance with this chapter or regulations of the
36 Medical Board of California promulgated under this chapter.

37 (12) “Medical records review meeting” means a meeting
38 between the supervising physician and surgeon and the physician
39 assistant during which medical records are reviewed to ensure
40 adequate supervision of the physician assistant functioning under

1 protocols. Medical records review meetings may occur in person
2 or by electronic communication.

3 (b) A physician assistant acts as an agent of the supervising
4 physician when performing any activity authorized by this chapter
5 or regulations adopted under this chapter.

6 SEC. 2. Section 3502 of the Business and Professions Code is
7 amended to read:

8 3502. (a) Notwithstanding any other law, a physician assistant
9 may perform those medical services as set forth by the regulations
10 adopted under this chapter when the services are rendered under
11 the supervision of a licensed physician and surgeon who is not
12 subject to a disciplinary condition imposed by the Medical Board
13 of California prohibiting that supervision or prohibiting the
14 employment of a physician assistant. The medical record, for each
15 episode of care for a patient, shall identify the physician and
16 surgeon who is responsible for the supervision of the physician
17 assistant.

18 (b) (1) Notwithstanding any other law, a physician assistant
19 performing medical services under the supervision of a physician
20 and surgeon may assist a doctor of podiatric medicine who is a
21 partner, shareholder, or employee in the same medical group as
22 the supervising physician and surgeon. A physician assistant who
23 assists a doctor of podiatric medicine pursuant to this subdivision
24 shall do so only according to patient-specific orders from the
25 supervising physician and surgeon.

26 (2) The supervising physician and surgeon shall be physically
27 available to the physician assistant for consultation when that
28 assistance is rendered. A physician assistant assisting a doctor of
29 podiatric medicine shall be limited to performing those duties
30 included within the scope of practice of a doctor of podiatric
31 medicine.

32 (c) (1) A physician assistant and his or her supervising physician
33 and surgeon shall establish written guidelines for the adequate
34 supervision of the physician assistant. This requirement may be
35 satisfied by the supervising physician and surgeon adopting
36 protocols for some or all of the tasks performed by the physician
37 assistant. The protocols adopted pursuant to this subdivision shall
38 comply with the following requirements:

39 (A) A protocol governing diagnosis and management shall, at
40 a minimum, include the presence or absence of symptoms, signs,

1 and other data necessary to establish a diagnosis or assessment,
2 any appropriate tests or studies to order, drugs to recommend to
3 the patient, and education to be provided to the patient.

4 (B) A protocol governing procedures shall set forth the
5 information to be provided to the patient, the nature of the consent
6 to be obtained from the patient, the preparation and technique of
7 the procedure, and the followup care.

8 (C) Protocols shall be developed by the supervising physician
9 and surgeon or adopted from, or referenced to, texts or other
10 sources.

11 (D) Protocols shall be signed and dated by the supervising
12 physician and surgeon and the physician assistant.

13 (2) (A) The supervising physician and surgeon shall use one
14 or more of the following mechanisms to ensure adequate
15 supervision of the physician assistant functioning under the
16 protocols:

17 (i) The supervising physician and surgeon shall review,
18 countersign, and date a sample consisting of, at a minimum, 5
19 percent of the medical records of patients treated by the physician
20 assistant functioning under the protocols within 30 days of the date
21 of treatment by the physician assistant.

22 (ii) The supervising physician and surgeon and physician
23 assistant shall conduct a medical records review ~~meeting~~, *meeting*
24 at least once a month during at least 10 months of the year. During
25 any month in which a medical records review meeting occurs, the
26 supervising physician and surgeon and physician assistant shall
27 review an aggregate of at least 10 medical records of patients
28 treated by the physician assistant functioning under protocols.
29 Documentation of medical records reviewed during the month
30 shall be jointly signed and dated by the supervising physician and
31 surgeon and the physician assistant.

32 ~~(iii) The supervising physician and surgeon shall supervise the~~
33 ~~care provided by the physician assistant through a review of cases~~
34 ~~involving treatment by the physician assistant functioning under~~
35 ~~protocols adopted by the supervising physician and surgeon. The~~
36 ~~review methods used shall be identified in the delegation of~~
37 ~~services agreement and shall include no less than an aggregate of~~
38 ~~10 cases per month for at least 10 months of the year.~~
39 ~~Documentation of the cases reviewed during the month shall be~~

1 ~~jointly signed and dated by the supervising physician and surgeon~~
2 ~~and the physician assistant.~~

3 *(iii) The supervising physician and surgeon shall review a*
4 *sample of at least 10 medical records per month, at least 10 months*
5 *during the year, using a combination of the countersignature*
6 *mechanism described in clause (i) and the medical records review*
7 *meeting mechanism described in clause (ii). During each month*
8 *for which a sample is reviewed, at least one of the medical records*
9 *in the sample shall be reviewed using the mechanism described in*
10 *clause (i) and at least one of the medical records in the sample*
11 *shall be reviewed using the mechanism described in clause (ii).*

12 (B) In complying with subparagraph (A), the supervising
13 physician and surgeon shall select for review those cases that by
14 diagnosis, problem, treatment, or procedure represent, in his or
15 her judgment, the most significant risk to the patient.

16 (3) Notwithstanding any other law, the Medical Board of
17 California or the board may establish other alternative mechanisms
18 for the adequate supervision of the physician assistant.

19 (d) No medical services may be performed under this chapter
20 in any of the following areas:

21 (1) The determination of the refractive states of the human eye,
22 or the fitting or adaptation of lenses or frames for the aid thereof.

23 (2) The prescribing or directing the use of, or using, any optical
24 device in connection with ocular exercises, visual training, or
25 orthoptics.

26 (3) The prescribing of contact lenses for, or the fitting or
27 adaptation of contact lenses to, the human eye.

28 (4) The practice of dentistry or dental hygiene or the work of a
29 dental auxiliary as defined in Chapter 4 (commencing with Section
30 1600).

31 (e) This section shall not be construed in a manner that shall
32 preclude the performance of routine visual screening as defined
33 in Section 3501.

34 (f) Compliance by a physician assistant and supervising
35 physician and surgeon with this section shall be deemed
36 compliance with Section 1399.546 of Title 16 of the California
37 Code of Regulations.

38 SEC. 3. Section 3502.1 of the Business and Professions Code
39 is amended to read:

1 3502.1. (a) In addition to the services authorized in the
2 regulations adopted by the Medical Board of California, and except
3 as prohibited by Section 3502, while under the supervision of a
4 licensed physician and surgeon or physicians and surgeons
5 authorized by law to supervise a physician assistant, a physician
6 assistant may administer or provide medication to a patient, or
7 transmit orally, or in writing on a patient's record or in a drug
8 order, an order to a person who may lawfully furnish the
9 medication or medical device pursuant to subdivisions (c) and (d).

10 (1) A supervising physician and surgeon who delegates authority
11 to issue a drug order to a physician assistant may limit this authority
12 by specifying the manner in which the physician assistant may
13 issue delegated prescriptions.

14 (2) Each supervising physician and surgeon who delegates the
15 authority to issue a drug order to a physician assistant shall first
16 prepare and adopt, or adopt, a written, practice specific, formulary
17 and protocols that specify all criteria for the use of a particular
18 drug or device, and any contraindications for the selection.
19 Protocols for Schedule II controlled substances shall address the
20 diagnosis of illness, injury, or condition for which the Schedule II
21 controlled substance is being administered, provided, or issued.
22 The drugs listed in the protocols shall constitute the formulary and
23 shall include only drugs that are appropriate for use in the type of
24 practice engaged in by the supervising physician and surgeon.
25 When issuing a drug order, the physician assistant is acting on
26 behalf of and as an agent for a supervising physician and surgeon.

27 (b) "Drug order," for purposes of this section, means an order
28 for medication that is dispensed to or for a patient, issued and
29 signed by a physician assistant acting as an individual practitioner
30 within the meaning of Section 1306.02 of Title 21 of the Code of
31 Federal Regulations. Notwithstanding any other provision of law,
32 (1) a drug order issued pursuant to this section shall be treated in
33 the same manner as a prescription or order of the supervising
34 physician, (2) all references to "prescription" in this code and the
35 Health and Safety Code shall include drug orders issued by
36 physician assistants pursuant to authority granted by their
37 supervising physicians and surgeons, and (3) the signature of a
38 physician assistant on a drug order shall be deemed to be the
39 signature of a prescriber for purposes of this code and the Health
40 and Safety Code.

1 (c) A drug order for any patient cared for by the physician
2 assistant that is issued by the physician assistant shall either be
3 based on the protocols described in subdivision (a) or shall be
4 approved by the supervising physician and surgeon before it is
5 filled or carried out.

6 (1) A physician assistant shall not administer or provide a drug
7 or issue a drug order for a drug other than for a drug listed in the
8 formulary without advance approval from a supervising physician
9 and surgeon for the particular patient. At the direction and under
10 the supervision of a physician and surgeon, a physician assistant
11 may hand to a patient of the supervising physician and surgeon a
12 properly labeled prescription drug prepackaged by a physician and
13 surgeon, manufacturer as defined in the Pharmacy Law, or a
14 pharmacist.

15 (2) A physician assistant shall not administer, provide, or issue
16 a drug order to a patient for Schedule II through Schedule V
17 controlled substances without advance approval by a supervising
18 physician and surgeon for that particular patient unless the
19 physician assistant has completed an education course that covers
20 controlled substances and that meets standards, including
21 pharmacological content, approved by the board. The education
22 course shall be provided either by an accredited continuing
23 education provider or by an approved physician assistant training
24 program. If the physician assistant will administer, provide, or
25 issue a drug order for Schedule II controlled substances, the course
26 shall contain a minimum of three hours exclusively on Schedule
27 II controlled substances. Completion of the requirements set forth
28 in this paragraph shall be verified and documented in the manner
29 established by the board prior to the physician assistant's use of a
30 registration number issued by the United States Drug Enforcement
31 Administration to the physician assistant to administer, provide,
32 or issue a drug order to a patient for a controlled substance without
33 advance approval by a supervising physician and surgeon for that
34 particular patient.

35 (3) Any drug order issued by a physician assistant shall be
36 subject to a reasonable quantitative limitation consistent with
37 customary medical practice in the supervising physician and
38 surgeon's practice.

39 (d) A written drug order issued pursuant to subdivision (a),
40 except a written drug order in a patient's medical record in a health

1 facility or medical practice, shall contain the printed name, address,
2 and telephone number of the supervising physician and surgeon,
3 the printed or stamped name and license number of the physician
4 assistant, and the signature of the physician assistant. Further, a
5 written drug order for a controlled substance, except a written drug
6 order in a patient's medical record in a health facility or a medical
7 practice, shall include the federal controlled substances registration
8 number of the physician assistant and shall otherwise comply with
9 Section 11162.1 of the Health and Safety Code. Except as
10 otherwise required for written drug orders for controlled substances
11 under Section 11162.1 of the Health and Safety Code, the
12 requirements of this subdivision may be met through stamping or
13 otherwise imprinting on the supervising physician and surgeon's
14 prescription blank to show the name, license number, and if
15 applicable, the federal controlled substances registration number
16 of the physician assistant, and shall be signed by the physician
17 assistant. When using a drug order, the physician assistant is acting
18 on behalf of and as the agent of a supervising physician and
19 surgeon.

20 (e) The supervising physician and surgeon shall use either of
21 the following mechanisms to ensure adequate supervision of the
22 administration, provision, or issuance by a physician assistant of
23 a drug order to a patient for Schedule II controlled substances:

24 (1) The medical record of any patient cared for by a physician
25 assistant for whom the physician assistant's Schedule II drug order
26 has been issued or carried out shall be reviewed, countersigned,
27 and dated by a supervising physician and surgeon within seven
28 days.

29 (2) If the physician assistant has documentation evidencing the
30 successful completion of an education course that covers controlled
31 substances, and that controlled substance education course (A)
32 meets the standards, including pharmacological content, established
33 in Sections 1399.610 and 1399.612 of Title 16 of the California
34 Code of Regulations, and (B) is provided either by an accredited
35 continuing education provider or by an approved physician assistant
36 training program, the supervising physician and surgeon shall
37 review, countersign, and date, within seven days, a sample
38 consisting of the medical records of at least 20 percent of the
39 patients cared for by the physician assistant for whom the physician
40 assistant's Schedule II drug order has been issued or carried out.

1 Completion of the requirements set forth in this paragraph shall
2 be verified and documented in the manner established in Section
3 1399.612 of Title 16 of the California Code of Regulations.
4 Physician assistants who have a certificate of completion of the
5 course described in paragraph (2) of subdivision (c) shall be
6 deemed to have met the education course requirement of this
7 subdivision.

8 (f) All physician assistants who are authorized by their
9 supervising physicians to issue drug orders for controlled
10 substances shall register with the United States Drug Enforcement
11 Administration (DEA).

12 (g) The board shall consult with the Medical Board of California
13 and report during its sunset review required by Article 7.5
14 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of
15 Division 2 of Title 2 of the Government Code the impacts of
16 exempting Schedule III and Schedule IV drug orders from the
17 requirement for a physician and surgeon to review and countersign
18 the affected medical record of a patient.

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.